

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This matter was conducted by way of Direct Request Proceeding, pursuant to section 55(4) of the Act, and dealt with an Application for Dispute Resolution by the landlord for an Order of Possession a monetary order due to unpaid rent an Order to keep the security deposit and recover the filing fee paid for this application.

The landlord provided two Canada Post tracking receipts but did not submit a signed Proof of Service of the Notice of Direct Request Proceeding to determine when the tenants were served.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession for unpaid rent; to a monetary Order for unpaid rent, to retain the deposit and filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 38, 46, 55, 67, and 72 of the *Residential Tenancy Act (Act)*. I have reviewed all documentary evidence.

Proof of Service of Direct Request proceeding

The landlord submitted a copy of the Application for Dispute Resolution which Contained two Canada Post receipts and tracking numbers. The landlord did not provide any proof as to when these were posted to the tenants, who posted them and that they were the Notices of the Direct Request proceeding.

The purpose of providing a signed proof of service is to provide information for a Direct Request Proceeding to determine that the tenants were served with Notice of the

proceeding as declared by the landlord. The landlord has the burden of proving that the tenants were served with the Notices of the Direct Request proceeding.

Analysis

In the absence of the evidence of proof of service of the Notice of Direct Request Proceeding I find that the landlord has failed to establish that the tenants were served with Notice of Direct Request Proceeding.

Conclusion

Having found that the landlord has failed to prove service of the Notice of Direct Request Proceeding I have determined that this application be dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 28, 2010.

Dispute Resolution Officer